

Message Text

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ACTION ARA-20

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-07 H-03 INR-11 L-03

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USIA-15 AID-20 NIC-01 EB-11 SIL-01 LAB-06 DRC-01

(ISO) W

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R 071630Z AUG 74

FM AMEMBASSY MANAGUA

TO SECSTATE WASHDC 4792

INFO AMEMBASSY GUATEMALA

AMEMBASSY SAN JOSE

AMEMBASSY TEGUCIGALPA

AMEMBASSY SAN SALVADOR

USCINCSO

C O N F I D E N T I A L MANAGUA 3080

USCINCSO FOR POLAD

E.O. 11652:15-GDS

TAGS: PGOV, PINT, NU

SUBJECT: ELECTIONS 1974: TRIAL OF THE TWENTY-SEVEN

REF: MANAGUA 2917, STATE 164798

1. ALL BUT ONE OF THE TWENTY-SEVEN SIGNATORS OF THE JUNE 26 ABSTENTION DECLARATION HAVE NOW APPEARED IN COURT TO ANSWER CRIMINAL CHARGES BROUGHT AGAINST THEM FOR SIGNING THAT DOCUMENT. WITH THE TESTIMONY OF LUIS SANCHEZ SANCHO ON AUGUST 2 AND ALVARO MONTTOYA LARA ON AUGUST 3 ONLY THAT OF FEDERICO KRAUDY REMAINS TO COMPLETE THE LIST. BY COINCIDENCE OR DESIGN, THESE LAST THREE DEFENDANTS ARE ALL MEMBERS OF THE SOCIALIST PARTY OF NICARAGUA (COMMUNIST).

2. AFTER KRAUDY'S DAY IN COURT, PROBABLY WITHIN THE NEXT FEW DAYS, SENTENCING OF THE 27 PRESUMEDLY COULD TAKE PLACE AT ANY TIME.

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MOST OBSERVERS, HOWEVER, EXPECT THE CASE TO DRAG ON WITH FINAL

ACTION POSTPONED UNTIL SOMETIME AFTER ELECTION DAY SEPTEMBER 1. GENERAL SOMOZA REPORTEDLY STATED IN A RECENT PRESS CONFERENCE THAT HE BELIEVED THE LEGAL PROCEEDINGS WOULD TAKE SOME TIME. CERTAINLY THIS WOULD SEEM THE MOST POLITIC APPROACH FOR THE GON, THUS DENYING FURTHER NOTORIETY TO THE ABSTENTIONISTS DURING A SENSITIVE PERIOD.

3. WHEN THE DAY OF RECKONING DOES COME, IT IS AS YET UNCLEAR WHAT STATUTE WILL BE USED TO SENTENCE THE TWENTY-SEVEN. IN PRESENTING ITS CASE SO FAR THE COURTS AND GOVERNMENT PROSECUTOR HAVE CITED OFFENSES ONLY UNDER ARTICLE 522 OF THE PENAL CODE AND ARTICLE 35, SECTION 6 OF THE CONSTITUTION. ARTICLE 522 PROVIDES A NON-COMMUTABLE SENTENCE OF SIX MONTHS TO TWO YEARS IMPRISONMENT FOR INCITING NON-OBSERVANCE (INOBSERVANCIA) OF THE CONSTITUTION WHILE ARTICLE 35 SIMPLY LISTS THOSE OFFENSES FOR WHICH A CITIZEN'S RIGHTS MAY BE SUSPENDED INCLUDING QUOTE PROCLAIMING END QUOTE ABSTENTION FROM VOTING.

4. COMMENT: RESPONDING MY STATE 164798, APPARENTLY THERE ARE NO PROVISIONS IN THE PENAL CODE OR ELECTORAL LAW IMPLEMENTING ARTICLE 35, SECTION 6 OF THE CONSTITUTION. WE DO NOT, HOWEVER, PRECLUDE THE POSSIBILITY THAT THE COURT, DESPITE PENAL ASSERTIONS THAT PROSECUTION IS ILLEGAL WITHOUT ENABLING LEGISLATION WILL IN THE CASE OF THE TWENTY-SEVEN EVENTUALLY IMPOSE IN SOME FORM THE PENALTY MENTIONED UNDER ARTICLE 35, I.E. SUSPENSION OF CITIZENSHIP RIGHTS. HAVING GONE THIS FAR IN THEIR LEGAL CONFRONTATION WITH THESE OPPOSITION GROUPS, IT WILL BE DIFFICULT FOR THE GON TO

ABANDON ITS CASE WITHOUT SOME KIND OF CONVICTION. WHAT A SUSPENSION OF CONSTITUTIONAL RIGHTS WILL MEAN IN PRACTICAL TERMS AND THE PROBABLE DURATION OF THE SUSPENSION IS DIFFICULT TO SAY SINCE EMBASSY IS AWARE OF NO PRECEDENTS FOR IMPLEMENTING SUCH A SENTENCE. IRONICALLY THE ONE RIGHT WE CAN BE CERTAIN WILL NOT BE SUSPENDED IS THE RIGHT TO VOTE; THE CONSTITUTION, PRESUMEDLY COURTING REPENTANTS SPECIFIES IN ARTICLE 35 THAT THOSE GUILTY OF PROCLAIMING ABSTENTION WILL BE ALLOWED TO VOTE. THE ALTERNATIVE OF JAILING THE TWENTY-SEVEN UNDER ARTICLE 522 ON THE PENAL CODE HAS DISTINCT POLITICAL DISADVANTAGES FOR THE GON. IMPRISONMENT OF SUCH A WELL-KNOWN GROUP OF OPPOSITION LEADERS WOULD CREATE A BEVY OF MARTYRS FOR THEIR FOLLOWERS TO RALLY ROUND AND EXPAND

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THEIR APPEAL FOR POPULAR SUPPORT. THE GON'S MOST RECENT EXPERIENCE WITH SUCH A MARTYR, COMMUNIST LABOR LEADER DOMINGO "CHAGUITILLO" SANCHEZ SALGADO, WHO IS ALSO ONE OF THE TWENTY-SEVEN, WAS SO NEGATIVE THAT IS NOT APT TO WILLINGLY REPEAT THE EXPERIENCE. LAST YEAR CHAGUITILLO BECAME A CAUSE CELEBRE FOR LEFTIST GROUPS AND THE GON WAS FINALLY FORCED TO RELEASE HIM AS A CONDITION IMPOSED BY THE COMMUNIST CONSTRUCTION WORKERS FOR ENDING THE JUNE-JULY 1973 STRIKE.

SHELTON

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